

1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF UTAH

3 * * * * * * * * * * * * * * * *

CAPANA SWISS ADVISORS AG, a *
Swiss corporation; AMERIMARK *
AUTOMOTIVE AG, a Swiss *
corporation, *

6 Plaintiffs, *

V. *

7 *

RYMARK, INC., a Utah corporation;*
NICHOLAS THAYNE MARKOSIAN, an
individual; JOHN KIRKLAND, an
individual; and VICKY SMALL, an
individual,*

10 *

Defendants. *

11 -- -- -- -- -- -- -- -- -- -- -- *

RYMARK, INC., a Utah corporation; *
and NICHOLAS THAYNE MARKOSIAN, *
an individual; *

13 *

Counter Claimants. *

14 *

V. *

15 *

CAPANA SWISS ADVISORS AG, a *

CAPANA SWISS ADVISORS AG, a *
Swiss corporation, and AMERIMARK *
AUTOMOTIVE AG, a Swiss *
corporation, *

18 Counter Defendants. *

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19

20 DEPOSITION OF

21

Stefan Kammerlander

22 September 3, 2024

23

24 Reported by: Spencer Von Jarrett, RPR No. 993793

25

JD Legal Support | (801) 937-9620

1 and I'm not going to ask John to agree to it right now, but I just
2 want to reserve my rights on that.

3 Do you understand that?

4 A. I understood what you said.

5 Q. Thank you. Just now you referenced reviewing invoices
6 from Venable.

7 I'm not going to ask you what those invoices say, but
8 does Capana pay Venable's invoices?

9 A. Yes.

10 Q. Is anyone else besides Capana financing this litigation?

11 Q. What do you mean?

12 MR. WORDEN: I'll object to the term "finance", because
13 it's a very special meaning.

14 But you can answer.

15 Q. Yeah, I'm happy to rephrase.

16 Is anyone else providing funds for this litigation that
17 you use to pay your attorneys?

18 A. Of course you also need funding, yes. Capana is not
19 that rich that can pay lawyers.

20 Q. Sure. So do you have a specific agreement with a third
21 party where that third party has agreed to fund this litigation,
22 meaning pay Capana's expenses in this litigation?

23 A. Not as such, no.

24 Q. John Simkiss isn't funding this litigation in any
25 capacity?

1 A. We do not have an agreement with John saying or agreeing
2 to finance everything. We do not have that.

3 But we do have loan agreements with him, yes.

4 Q. So you've borrowed money from John Simkiss?

5 A. Yes, we did.

6 Q. And I assume you could use that money to pay for this
7 litigation or something else if you liked, correct?

8 A. Yes.

9 Q. But the terms of those loans do not require you to use
10 the money for this litigation, is that fair to say?

11 A. Fair to say.

12 Q. Is anyone else besides Mr. Simkiss making loans to
13 Capana right now?

14 A. No, it's the -- yes. Josh McMorro [phonetic] did a
15 loan.

16 Q. Same question: do the terms of that loan say anything
17 about this litigation?

18 A. I don't recall.

19 Q. Martin Nolle is not funding this litigation, correct?

20 A. No.

21 Q. I didn't think so.

22 A. Just for your knowledge, he was a plaintiff, and yeah.

23 Q. And you've since settled with him, is that correct?

24 A. Correct.

25 Q. Mr. Kammerlander, I appreciate your patience today.